

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08CV367

HIGH VOLTAGE BEVERAGES, LLC,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	
	)	
vs.	)	ORDER
	)	
THE COCA-COLA COMPANY,	)	
	)	
Defendant/Counterclaim Plaintiff.	)	
_____	)	

This matter is before the court upon Plaintiff's Motion to Sever the Champerty Counterclaim for Trial (Docket # 263), pursuant to Rule 42(b) of the Federal Rules of Civil Procedure. The court has carefully considered the briefs and submissions of the parties.

Rule 42(b) provides that the court has discretion to order separate trials of one or more separate issues or claims "[f]or convenience, to avoid prejudice, or to expedite and economize." Fed. R. Civ. P. 42(b). The Plaintiff herein has the burden of demonstrating that separate trials are warranted. *See Walker v. White*, 2010 WL 2390149, at \*1 (W.D.N.C. June 10, 2010). To meet this burden, Plaintiff must demonstrate that bifurcation "will (1) promote greater convenience to the parties, witnesses, jurors, and the court, (2) be conducive to expedition and economy, and (3) not result in undue prejudice to any party." *Id.* The court finds that the Plaintiff has failed to meet this burden. Moreover, the factual issues are too intertwined to allow bifurcation. Based upon the forecast of the evidence, it appears that there will be significant overlap of issues and evidence. Rather than promoting efficiency and economy, the court finds that bifurcation will likely prolong trial time and cause inconvenience to the court, jurors, parties and witnesses. Accordingly,

IT IS THEREFORE ORDERED that Plaintiff's Motion to Sever is hereby DENIED.

Signed: March 23, 2011

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

